



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

May 13, 2016

Summary of Cases Accepted and Related Actions During Week of May 9, 2016

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#16-146 *Alvarado v. Dart Container Corp. of California*, S232607. (E061645; 243 Cal.App.4th 1200; Riverside County Superior Court; RIC1211707.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: What is the proper method for calculating the rate of overtime pay when an employee receives both an hourly wage and a flat sum bonus?

#16-147 *People v. Mateo*, S232674. (B258333; nonpublished opinion; Los Angeles County Superior Court; BA414092.) Petition for review after the Court of Appeal affirmed judgments of conviction of a criminal offense. This case presents the following issue: In order to convict an aider and abettor of attempted willful, deliberate and premeditated murder under the natural and probable consequences doctrine, must a premeditated attempt to murder have been a natural and probable consequence of the target offense? In other words, should *People v. Favor* (2012) 54 Cal.4th 868 be reconsidered in light of *Alleyne v. United States* (2013) ___ U.S. ___ [113 S.Ct. 2151] and *People v. Chiu* (2014) 59 Cal.4th 155?

#16-148 *People v. Bias*, S233634. (E062949; 245 Cal.App.4th 302; Riverside County Superior Court; RIF1206306.) Petition for review after the Court of Appeal reversed an order granting a petition to recall sentence.

#16-149 *People v. Root*, S233546. (D068235; 245 Cal.App.4th 353; San Diego County Superior Court; SCD205341.) Petition for review after the Court of Appeal reversed an order denying in part a petition to recall sentence.

The court ordered briefing in *Bias* and *Root* deferred pending decision in *People v. Gonzales*, S231171 (#16-39), which presents the following issue: Was defendant entitled

to resentencing under Penal Code section 1170.18 on his conviction for second degree burglary either on the ground that it met the definition of misdemeanor shoplifting (Pen. Code, § 459.5) or on the ground that section 1170.18 impliedly includes any second degree burglary involving property valued at \$950 or less?

#16-150 *In re F.T.*, S233479. (F072329; nonpublished opinion; Stanislaus County Superior Court; 516454.) Petition for review after the Court of Appeal affirmed an order terminating parental rights.

#16-151 *In re R.R.*, S233253. (F070994; nonpublished opinion; Fresno County Superior Court; 13CEJ300338) Petition for review after the Court of Appeal affirmed an order terminating parental rights.

The court ordered briefing in *F.T.* and *R.T.* deferred pending decision in *In re Isaiah W.*, S221263 (#14-123), which presents the following issue: Does a parent's failure to appeal from a juvenile court order finding that notice under the Indian Child Welfare Act was unnecessary preclude the parent from subsequently challenging that finding more than a year later in the course of appealing an order terminating parental rights?

#16-152 *People v. Fernandez*, S233563. (B264984; nonpublished opinion; Ventura County Superior Court; 2011045339.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-153 *People v. Jasso*, S233545. (B265981; nonpublished opinion; Ventura County Superior Court; 2013006761.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-154 *People v. Jones*, S233334. (B262590; nonpublished opinion; Ventura County Superior Court; 2012016443.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-155 *People v. Lateano*, S233365. (B265542; nonpublished opinion; Ventura County Superior Court; 2012036860.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-156 *People v. Rodriguez*, S233577. (B265167; nonpublished opinion; Ventura County Superior Court; 2013003058.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

The court ordered briefing in *Fernandez*, *Jasso*, *Jones*, *Lateano*, and *Rodriguez* deferred pending decision in *People v. Morales*, S228030 (#15-156), which presents the following issue: Can excess custody credits be used to reduce or eliminate the one-year parole

period required by Penal Code section 1170.18, subdivision (d), upon resentencing under Proposition 47?

#16-157 *People v. Flaherty*, S233465. (E063718; nonpublished opinion; Riverside County Superior Court; RIF10001926.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Page*, S230793 (#16-28), which concerns the application of Proposition 47 to the offense of unlawful taking or driving a vehicle, and *People v. Romanowski*, S231405 (#16-24), which concerns the application of Proposition 47 to theft-related offenses such as theft of access card information.

#16-158 *People v. Grayson*, S233414. (C073803; nonpublished opinion; Sacramento County Superior Court; 12F06863.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#16-159 *People v. King*, S233324. (D068424; nonpublished opinion; San Diego County Superior Court; SCD234016.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence.

#16-160 *People v. Quair*, S233516. (F068313; nonpublished opinion; Kings County Superior Court; 13CM1205.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#16-161 *People v. Ruff*, S233201. (F068131; 244 Cal.App.4th 935; Kern County Superior Court; BF142935A, BF143806A, SF016996A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#16-162 *People v. Sotelo*, S233501. (A144405; nonpublished opinion; Lake County Superior Court; CR934027A.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence.

#16-163 *People v. Williams*, S233539. (B264110; 245 Cal.App.4th 458; Los Angeles County Superior Court; MA060453.) Petition for review after the Court of Appeal affirmed an order granting in part and denying in part a petition to recall sentence

The court ordered briefing in *Grayson*, *King*, *Quair*, *Ruff*, *Sotelo*, and *Williams* deferred pending decision in *People v. Valenzuela*, S232900 (#16-97), which presents the following issue: Is a defendant eligible for resentencing on the penalty enhancement for serving a prior prison term on a felony conviction after the superior court has reclassified the underlying felony as a misdemeanor under the provisions of Proposition 47?

#16-164 *People v. Mendoza*, S233575. (H042293; nonpublished opinion; Santa Clara County Superior Court; EE014970.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Page*, S230793 (#16-28), which presents the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply to the offense of unlawful taking or driving a vehicle (Veh. Code, § 10851), because it is a lesser included offense of Penal Code section 487, subdivision (d), and that offense is eligible for resentencing to a misdemeanor under Penal Code sections 490.2 and 1170.18?

#16-165 *People v. Santos*, S233178. (C075131; nonpublished opinion; Shasta County Superior Court; 03F6857.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Chaney*, S223676 (#15-13), and *People v. Valencia*, S223825 (#15-14), which present the following issue: Does the definition of “unreasonable risk of danger to public safety” (Pen. Code, § 1170.18, subd. (c)) under Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply on retroactivity or other grounds to resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

#16-166 *People v. Shorter*, S233177. (B263972; nonpublished opinion; Los Angeles County Superior Court; YA054743.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Romanowski*, S231405 (#16-24), which present the following issue: Does Proposition 47 (“the Safe Neighborhoods and Schools Act”), which reclassifies as a misdemeanor any grand theft involving property valued at \$950 or less (Pen. Code, § 490.2), apply to theft of access card information in violation of Penal Code section 484e, subdivision (d)?

#16-167 *People v. White*, S233261. (G050767; nonpublished opinion; Orange County Superior Court; 13WF3583.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. DeHoyos*, S228230 (#15-171), which presents the following issue: Does the Safe Neighborhood and Schools Act [Proposition 47] (Gen. Elec. (Nov. 4, 2014)), which made specified crimes misdemeanors rather than felonies, apply retroactively to a defendant who was sentenced before the Act’s effective date but whose judgment was not final until after that date?

DISPOSITION

Review in the following case, which was granted and held for *Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176, was dismissed:

#15-182 *Newark Unified School Dist. v. Superior Court*, S229112. The opinion of the Court of Appeal, originally printed at 239 Cal.App.4th 33 and republished at 245 Cal.App.4th 885, was ordered to remain published.

STATUS

#14-01 *Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.*, S214061. The court vacated submission in this matter and directed the filing of supplemental briefs on the following questions: (1) Under California Environmental Quality Act (CEQA) Guidelines section 15162, what standard of judicial review applies to an agency's determination that no environmental impact report (EIR) is required as a result of proposed modifications to a project that was initially approved by negative declaration or mitigated negative declaration? (See generally *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467, 1479–1482.) (2) Does CEQA Guidelines section 15162, as applied to projects initially approved by negative declaration or mitigated negative declaration rather than EIR, constitute a valid interpretation of the governing statute? (Compare *Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1073–1074 with *Benton* at pp. 1479–1480.)

#16-105 *Kim v. Toyota Motor Corp.*, S232754. The court ordered the issue to be briefed and argued in this case limited to the following: Did the trial court commit reversible error in admitting, as relevant to the risk-benefit test for design defect, evidence of industry custom and practice related to the alleged defect?

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.